

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 494

Introduced by Assembly Member Caballero

February 24, 2009

An act to amend ~~Sections 51230.2 and 66474.4~~ *Section 51230.2* of, and to add Section 65852.12 to, the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 494, as amended, Caballero. Local planning: ~~farmworker~~ *agricultural laborer* housing.

(1) The Williamson Act authorizes any city or county to enter into a contract with the owner of agricultural land for the purpose of preserving that land in accordance with the conditions established by that contract and the act. The act authorizes a landowner to subdivide land subject to a Williamson Act contract for the purpose of providing farmworker housing if specified criteria regarding the parcel and the transaction are met, including the criterion that the parcel be within a city or an unincorporated territory or sphere of influence that is contiguous to one or more parcels that are already zoned residential, commercial, or industrial and developed with existing residential, commercial, or industrial uses.

This bill would modify that criterion so that the parcel would be required to be within a city or in an unincorporated territory or sphere of influence that is contiguous to one or more parcels that are already zoned residential, commercial, or industrial and developed with existing

residential, commercial, or industrial uses, or has access to *an* existing *source of potable* drinking water and sanitary sewer service.

(2) The Planning and Zoning Law provides for the adoption and administration of zoning laws, ordinances, rules, and regulations by a city, county, or city and county.

This bill would *determine the erection, construction, alteration, or maintenance of agricultural laborer housing to be an allowable use within any agricultural zone, unless a legislative body makes a specified finding.* The bill would prohibit a city, county, or city and county, when an applicant proposes to subdivide land for the purposes of developing ~~farmworker~~ *agricultural laborer* housing, as specified, from enforcing or imposing any local ordinance, regulation, or development standard that requires a minimum parcel size. The bill would establish specified requirements for a parcel proposed to be developed as ~~farmworker~~ *agricultural laborer* housing pursuant the above provisions, and would require the development of ~~farmworker~~ *agricultural laborer* housing on a parcel pursuant to these provisions to be considered an agricultural use of the land. The bill would provide that these provisions do not apply if at the time of application greater than 100 acres of land within the jurisdiction have been developed with ~~farmworker~~ *agricultural laborer* housing pursuant to these provisions.

~~(3) The Subdivision Map Act requires the legislative body of a city or county to deny approval of a tentative map or a parcel map for land subject to an open-space easement, an agricultural conservation easement, or conservation easement if the resulting parcels would be too small to sustain their restricted agricultural use.~~

~~This bill would exempt from these provisions farmworker housing on agricultural land that is subject to a Williamson Act contract or farmworker housing that meets specified conditions. By adding to the duties of local officials, this bill would impose a state-mandated local program.~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

SECTION 1. Section 51230.2 of the Government Code is amended to read:

51230.2. (a) Except as provided in Section 51238, and notwithstanding Section 51222 or 66474.4, a landowner may subdivide land that is currently designated as an agricultural preserve if all of the following apply:

(1) The parcel to be sold or leased is no more than five acres.

(2) The parcel shall be sold or leased to a nonprofit organization, a city, a county, a housing authority, or a state agency. A lessee that is a nonprofit organization shall not sublease that parcel without the written consent of the landowner.

(3) The parcel to be sold or leased shall be subject to a deed restriction that limits the use of the parcel to agricultural laborer housing facilities for not less than 30 years. That deed restriction shall also require that parcel to be merged with the parcel from which it was subdivided when the parcel ceases to be used for agricultural laborer housing.

(4) There is a written agreement between the parties to the sale or lease and their successors to operate the parcel to be sold or leased under joint management of the parties, subject to the terms and conditions and for the duration of the contract executed pursuant to Article 3 (commencing with Section 51240).

(5) The parcel to be sold or leased is (A) within a city or (B) in an unincorporated territory or sphere of influence that is contiguous to one or more parcels that are already zoned residential, commercial, or industrial and developed with existing residential, commercial, or industrial uses, or the parcel has access to ~~existing~~ *an existing source of potable* drinking water and sanitary sewer service.

(b) The agricultural labor housing project shall be designed to abate, to the extent practicable, impacts on adjacent landowners' agricultural husbandry practices. The final plan for the housing shall include an addendum that explains what features will be included to meet this goal.

(c) A subdivision of land pursuant to this section shall not affect any contract executed pursuant to Article 3 (commencing with Section 51240). The parcel to be sold or leased shall remain subject to that contract.

SEC. 2. Section 65852.12 is added to the Government Code, to read:

65852.12. (a) ~~Notwithstanding~~ *The erection, construction, alteration, or maintenance of agricultural laborer housing is hereby deemed to be an allowable use within any agricultural zone, unless a legislative body after notice and hearing makes a finding based on substantial evidence of either of the following:*

(1) *The locality has adopted a housing element in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 that has been revised in accordance with Section 65588, and there is no existing need for agricultural laborer housing within the locality.*

(2) *The provision of agricultural laborer housing on agriculturally zoned land would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health or safety that cannot be satisfactorily mitigated without rendering the development of agricultural laborer housing infeasible.*

(b) ~~Notwithstanding~~ Section 66474.4, when an applicant proposes to subdivide land for the purposes of developing ~~farmworker~~ agricultural laborer housing that meets the requirements of ~~subdivision (b)~~ subdivisions (a) and (c), the city, county, or city and county shall not enforce or impose any local ordinance, regulation, or development standard that requires a minimum parcel size.

~~(b) Farmworker~~

(c) Agricultural laborer housing proposed pursuant to subdivision (a) shall meet all of the following:

(1) The parcel to be created is on land currently zoned for agricultural use or on land zoned for open space but currently in agricultural use, ~~provided the land is not subject to an open-space~~ *that where the land is subject to a conservation easement, as defined in Section 815.1 of the Civil Code, the proposed housing is consistent with the terms of that easement.*

(2) The parcel to be sold or leased is five acres or smaller.

(3) The parcel shall be sold or leased to a nonprofit organization, a city, a county, a housing authority, or a state agency. A lessee that is a nonprofit organization shall not sublease that parcel without the written consent of the landowner.

(4) The parcel to be sold or leased shall be subject to a deed restriction that limits the use of the parcel to ~~farmworker~~ *agricultural laborer* housing facilities for not less than 30 years. That deed restriction also shall require that parcel to be merged with the parcel from which it was subdivided when the parcel ceases to be used for ~~farmworker~~ *agricultural laborer* housing.

(5) *After the parcel is subdivided, the resulting parcel not dedicated to agricultural laborer housing is no less than 10 acres in size.*

(e)

(d) The development of ~~farmworker~~ *agricultural laborer* housing on a parcel created pursuant to this section shall be considered an agricultural use of the land. *The agricultural laborer housing project shall be designed to abate or mitigate, to the extent practicable, impacts on adjacent landowners' agricultural husbandry practices. The final plan for the housing shall include an addendum that explains what features will be included to meet this goal.*

(d)

(e) This section shall not apply if at the time of application more than 100 acres of land within the jurisdiction have been developed with ~~farmworker~~ *agricultural laborer* housing pursuant to this section.

SEC. 3. ~~Section 66474.4 of the Government Code is amended to read:~~

~~66474.4. (a) The legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it finds that either the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use or the subdivision will result in residential development not incidental to the commercial agricultural use of the land, and if the legislative body finds that the land is subject to any of the following:~~

~~(1) A contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5), including an easement entered into pursuant to Section 51256.~~

~~(2) An open-space easement entered into pursuant to the Open-Space Easement Act of 1974 (Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1 of Title 5).~~

~~(3) An agricultural conservation easement entered into pursuant to Chapter 4 (commencing with Section 10260) of Division 10.2 of the Public Resources Code.~~

~~(4) A conservation easement entered into pursuant to Chapter 4 (commencing with Section 815) of Part 2 of Division 2 of the Civil Code.~~

~~(b) (1) For purposes of this section, land shall be conclusively presumed to be in parcels too small to sustain their agricultural use if the land is (A) less than 10 acres in size in the case of prime agricultural land, or (B) less than 40 acres in size in the case of land that is not prime agricultural land.~~

~~(2) For purposes of this section, agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (A) at least 10 acres in size in the case of prime agricultural land, or (B) at least 40 acres in size in the case of land that is not prime agricultural land.~~

~~(c) A legislative body may approve a subdivision with parcels smaller than those specified in this section if the legislative body makes either of the following findings:~~

~~(1) The parcels can nevertheless sustain an agricultural use permitted under the contract or easement, or are subject to a written agreement for joint management pursuant to Section 51230.1 and the parcels that are jointly managed total at least 10 acres in size in the case of prime agricultural land or 40 acres in size in the case of land that is not prime agricultural land.~~

~~(2) One of the parcels contains a residence and is subject to Section 428 of the Revenue and Taxation Code; the residence has existed on the property for at least five years; the landowner has owned the parcels for at least 10 years; and the remaining parcels shown on the map are at least 10 acres in size if the land is prime agricultural land, or at least 40 acres in size if the land is not prime agricultural land.~~

~~(d) No other homesite parcels as described in paragraph (2) of subdivision (c) may be created on any remaining parcels under contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5) for at least 10 years following the creation of a homesite parcel pursuant to this section.~~

~~(e) This section shall not apply to land that is subject to a contract entered into pursuant to the California Land Conservation~~

1 ~~Act of 1965 (Chapter 7 (commencing with Section 51200) of~~
2 ~~Division 1 of Title 5) when any of the following has occurred:~~

3 ~~(1) A local agency formation commission has approved the~~
4 ~~annexation of the land to a city and the city will not succeed to the~~
5 ~~contract as provided in Sections 51243 and 51243.5.~~

6 ~~(2) Written notice of nonrenewal of the contract has been served,~~
7 ~~as provided in Section 51245, and, as a result of that notice, there~~
8 ~~are no more than three years remaining in the term of the contract.~~

9 ~~(3) The board or council has granted tentative approval for~~
10 ~~cancellation of the contract as provided in Section 51282.~~

11 ~~(f) This section shall not apply during the three-year period~~
12 ~~preceeding the termination of a contract described in paragraph (1)~~
13 ~~of subdivision (a).~~

14 ~~(g) This section shall not be construed as limiting the power of~~
15 ~~legislative bodies to establish minimum parcel sizes larger than~~
16 ~~those specified in subdivision (a).~~

17 ~~(h) This section does not limit the authority of a city or county~~
18 ~~to approve a tentative or parcel map with respect to land subject~~
19 ~~to an easement described in this section for which agriculture is~~
20 ~~the primary purpose if the resulting parcels can sustain uses~~
21 ~~consistent with the intent of the easement.~~

22 ~~(i) This section does not limit the authority of a city or county~~
23 ~~to approve a tentative or parcel map with respect to land subject~~
24 ~~to an easement described in this section for which agriculture is~~
25 ~~not the primary purpose if the resulting parcels can sustain uses~~
26 ~~consistent with the purposes of the easement.~~

27 ~~(j) Where an easement described in this section contains~~
28 ~~language addressing allowable land divisions, the terms of the~~
29 ~~easement shall prevail.~~

30 ~~(k) The amendments to this section made in the 2002 portion~~
31 ~~of the 2001–02 Regular Session of the Legislature shall apply only~~
32 ~~with respect to contracts or easements entered into on or after~~
33 ~~January 1, 2003.~~

34 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
35 ~~Section 6 of Article XIII B of the California Constitution because~~
36 ~~a local agency or school district has the authority to levy service~~
37 ~~charges, fees, or assessments sufficient to pay for the program or~~

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

O